IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.3383 OF 2004

IN

SUIT NO.3368 OF 2004

...

Mrs.Zeenat Ikrammuddin Sayed ...Plaintiff

v/s.

Mrs.Zaibunnisa Isaak Shah

and ors. ...Defendants

...

Mr.Y.U.Divekar i/b M/s.Divekar & Co. for the Plaintiff.

Mr.D.R.Sanghavi for Defendant No.1.

...

CORAM: D.K.DESHMUKH, J.

DATED: 29TH SEPTEMBER,2005

P.C.:

. It is an admitted position that the flat in relation to which the interim relief is sought was owned by the mother of the Plaintiff and the Defendant No.1. Though the Defendant No.1 is propounding Will of the deceased, admittedly that Will has not been probated.

2. According to the Defendant No.1, Suit No.2293 of 1983 filed in the City Civil Court was withdrawn by the Plaintiff without seeking leave of the Court. But neither copy of the plaint in the city civil court's suit nor a copy of the order by which that suit was withdrawn is produced. It is clear from the material presently available on record, at least prima facie, that the Plaintiff has a share in the flat and therefore, in my opinion, it will be appropriate to restrain the Defendant No.1 from transferring the flat to a third party. In my opinion, therefore, interest of justice will be served by granting this Notice of Motion in terms of prayer clause (b). It is accordingly so ordered.

Notice of Motion disposed of.

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